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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/827,342

04/20/2004

William J. Wanatosky

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EXAMINER

NDUBIZU, CHUKA CLEMENT

ART UNIT

PAPER NUMBER

3749

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/827,342

Applicant(s)

WANATOSKY ET AL.

Examiner

Chuka C. Ndubizu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-3, 7, 9, 11-14, 17, 19, 20-22, 26, 27, 30,31 33-38, 40 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Hodges et al 4,485,801. Hodges teaches the invention as claimed, (Figs. 1-3) (claim 38) a cooking utensil comprising: (claims 1, 26, 27, 30 and 48) an inner container 4, which has a first upper edge (top of 4) and which holds a substance (e.g. oil, column 1 line 13) in a first space inside the inner container; and an outer container 5 having a second upper edge (top of 5) and coupled to the inner container (fig 1), wherein a second space 6 is defined between the inner container and the outer container, and wherein, when the substance flows out of the first space inside the inner container and over the first upper edge, the substance is received in the second space; wherein the outer container receives the substance ("oil" column 2 line 62) such that the substance does not flow down an outer surface of the inner container and past a bottom edge of the inner container (column 2 line 14-21); wherein the second upper edge completely surrounds the first upper edge of the inner container such that an interior of the outer container completely surrounds the interior of the inner container when viewed from above (see fig 1 column 1 line 31);

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(claims 2, 31 and 3) wherein the bottom edge of the outer container is attached to an outer surface of the inner container and is attached between the first upper edge of the inner container and a bottom edge of the inner container (column 2 line 10, 11, Fig. 1); (claim 7, 9, 11, 33) wherein the second upper edge completely surrounds the first upper edge of the inner container and the shapes of the two edges are circular when viewed from above (fig 1 and 2, column 1 line 31, "the lid 9 fits over 4 and 5" column 3 line 14-16); (claims 12-14, 34, 35) wherein the inner container is substantially cylindrical, and wherein the outer container is substantially bowl-shaped; wherein a central axis of the inner container is substantially collinear with a central axis of the outer container (see fig 1); (claims 17 and 19) wherein the second upper edge is higher than the first upper edge; (claims 20, 21, 36) the cooking utensil further comprising at least a first hole 8 provided in an outer surface of the inner container to provide a flow path from the second space to the first space (fig 1 column 2 line 66,67); (claim 22, 37) and the utensil further comprising a first valve 8, wherein the first valve allows the substance to flow from the second space, through the first hole, and into the first space, and wherein the first valve impedes the substance from flowing from the first space, through the first hole, and into the second space (column 2 line 56-65); wherein the substance comprises both foam and water (column 1 line 10-13); (claim 40) wherein the outer container is connected to the inner container via at least one support 7.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
2. Claim 4, 5, 18, 28, 29 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hodges in view of Blenz 1,719,042. Hodges teaches the invention as claimed and as discussed above. However, Hodges does not teach, a container apparatus wherein an edge of the outer container is attached to a bottom edge of the inner container; wherein the edge of the outer container is a bottom edge of the outer container; wherein the first upper edge is higher than the second upper edge. Hodges does not specifically teach the substance being foam and/or water but Hodges discloses that the apparatus is used in "defense against boiling over" while using "high water content ingredients" (column 1 line 10-13). Boiling water produces bubbles (foam).

Blenz discloses a milk boiler insert (fig 1 and 2) wherein the bottom edge of the outer container 12 is attached to a bottom edge of the inner container 13 (fig 1); wherein the first upper edge (top edge of 13) is higher than the second upper edge (top edge of 12). Blenz also discloses boiling milk (page 1 line 58) and boiling milk usually produces foam.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hodges's utensil by including all the limitations taught by Blenz and recited above in order to provide a device that will prevent boil over and thereby reduce cooking odor as taught by Blenz (page 1 line 5-9).

3. Claims 39, 41-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hodges in view of Duarte 2,513,011. Hodges teaches the invention as claimed and as discussed above. However, Hodges does not teach a container apparatus, wherein a bottom edge of the outer container is located below a bottom edge of the inner container; wherein the outer surface of the inner container comprises an outer side surface; wherein the inner surface of the outer container comprises an inner side surface, and wherein the inner side surface of the outer container is connected to the outer side surface of the inner container via the at least one support; wherein the at least one support comprises a plurality of supports; wherein the supports are arranged around the outer side surface of the inner container in a spoke-like fashion; wherein the supports are uniformly spaced around the outer side surface of the inner container; wherein the outer container is connected to an outer bottom surface of

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the inner container via the at least one support; wherein the outer container is connected to an outer bottom surface of the inner container via a plurality of supports.

Daurte discloses a cooking utensil (figs 1-3) comprising an inner container 11 and outer container 4; wherein a bottom edge of the outer container is located below a bottom edge of the inner container (fig 1); wherein the outer surface of the inner container 11 comprises an outer side surface; wherein the inner surface of the outer container 4 comprises an inner side surface, and wherein the inner side surface of the outer container is connected to the outer side surface of the inner container via a plurality of supports 12, 13; wherein the supports are arranged around the outer side surface of the inner container in a spoke-like fashion uniformly spaced (fig 2); wherein the outer container is connected to an outer bottom surface of the inner container via a plurality of supports 12, 13.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hodges's utensil by including all the limitations taught by Daurte and recited above in order to provide a device for preventing a cooking utensil overflow from reaching the fire as taught by Daurte (column 1 line 5-8).

4. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hodges in view of Sargent 2,010,931. Hodges teaches the invention as claimed and as discussed above except for a container wherein a shape of the first upper edge, when viewed from above, and a shape of the second upper edge, when viewed from above, are substantially different.

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Sargent discloses a cooking utensil wherein the shapes of, the first upper edge (top of 30), when viewed from above, and the second upper edge (top of 34), when viewed from above, are substantially different.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hodges's utensil by including all the limitations taught by Sargent and recited above in order to provide a device for preventing cooking utensil overflow that is simple to produce as taught by Sargent (column 1 line 6-9).

5. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hodges in view of Vredenburg 2,501,799. Hodges teaches the invention as claimed and as discussed above. However, Hodges does not teach a container, wherein the first upper edge of the inner container and the second upper edge of the outer container are located at the same height; wherein the first upper edge of the inner container and the second upper edge of the outer container lie within the same plane.

Vredenburg discloses a cooking apparatus (figs 1-3), wherein the first upper edge of the inner container 3 and the second upper edge of the outer container (top of 1) are located at the same height and they lie within the same plane (fig. 3).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hodges's utensil by including all the limitations taught by Vredenburg and recited above in order to provide a device for catching cooking utensil overflow as taught by Vredenburg (column 1 line 11).

6. Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hodges in view of Parenti 2,607,338. Hodges teaches the invention as claimed and as discussed above except for the inner surface of the outer container completely surrounding the first space.

Parenti discloses a cooking utensil juice catcher (figs 1-3), comprising the first space A defined by the inner surface of the inner container and the second space B defined between an outer surface of the inner container and the inner surface of the outer container; wherein the inner surface of the outer container completely surrounding the first space (fig 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hodges's utensil by including all the limitations taught by Parenti and recited above in order to provide a device for catching overflow of juices during baking as taught by Parenti (column 1 line 5-9).

7. Claims 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hodges in view of Koch 2,106,750. Hodges teaches the invention as claimed and as discussed above. However, Hodges does not teach a container, wherein the valve is located within the inner container and is pivotally attached to an inner surface of the inner container; wherein the valve is pivotally attached above the first hole; the apparatus further comprising a second outer container coupled to the outer container, wherein a third space is defined between the outer container and the second outer container, wherein the outer container has a second upper edge, and wherein,

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when the substance flows out of the outer container and over the second upper edge, the substance is held in the third space by the second outer container.

Koch discloses a safety apparatus (fig 4), wherein the valve 19 is located within the tube 17 and the flap 21 is pivotally attached (at 22) to an inner surface of the conduit; wherein the valve is pivotally attached above the first hole(top of the conduit near 20).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Hodges's utensil by including all the limitations taught by Koch and recited above in order to provide a device that will block the flow of materials from the first space to the second space as taught by Hodges (column 2 line 49-51).

With regard to claim 25, the provision of a second outer container is deemed a matter of duplication of parts where no new unexpected results are produced. In this case the result of providing an additional container is the amplification of the effects of the outer container and it is expected. This limitation is therefore given no patentable weight. *In re Harza*, 274 F.2d 699, 124 USPQ 378 (CCPA 1960).

Conclusion


The prior art made of record in the attached USPTO 892 and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuka C. Ndubizu whose telephone number is 571-272-6531. The examiner can normally be reached on Monday - Friday 8.30 - 4.30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Rinehart can be reached on 571-272-4881. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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